

§ 30.205

§ 30.205 How do I seek review of a summary probate proceeding?

(a) If you are adversely affected by the written decision in a summary probate proceeding, you may seek de novo review of the case. To do this, you must file a request with the OHA office that issued the decision within 30 days after the date the decision was mailed.

(b) The request for de novo review must be in writing and signed, and must contain the following information:

- (1) The name of the decedent;
- (2) A description of your relationship to the decedent;
- (3) An explanation of what errors you allege were made in the summary probate decision; and
- (4) An explanation of how you are adversely affected by the decision.

§ 30.206 What happens after I file a request for de novo review?

(a) Within 10 days of receiving a request for de novo review, OHA will notify the agency that prepared the probate file, all other affected agencies, and all interested parties of the de novo review, and assign the case to a judge.

(b) The judge will review the merits of the case, conduct a hearing as necessary or appropriate under the regulations in this part, and issue a new decision under this part.

§ 30.207 What happens if nobody files for de novo review?

If no interested party requests de novo review within 30 days of the date of the written decision, it will be final for the Department. OHA will send:

- (a) The complete original record and the final order to the agency that prepared the probate file; and
- (b) A copy of any relevant portions of the record to any other affected agency.

Subpart J—Formal Probate Proceedings

NOTICE

§ 30.210 How will I receive notice of the formal probate proceeding?

OHA will provide notice of the formal probate proceeding under § 30.114(a) by

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mail and by posting. A posted and published notice may contain notices for more than one hearing, and need only specify the names of the decedents, the captions of the cases and the dates, times, places, and purposes of the hearings.

(a) The notice must:

- (1) Be sent by first class mail;
- (2) Be sent and posted at least 21 days before the date of the hearing; and
- (3) Include a certificate of mailing with the date of mailing, signed by the person mailing the notice.

(b) A presumption of actual notice exists with respect to any person to whom OHA sent a notice under paragraph (a) of this section, unless the notice is returned by the Postal Service as undeliverable to the addressee.

(c) OHA must post the notice in each of the following locations:

- (1) Five or more conspicuous places in the vicinity of the designated place of hearing; and
- (2) The agency with jurisdiction over each parcel of trust or restricted property in the estate.

(d) OHA may also post the notice in other places and on other reservations as the judge deems appropriate.

§ 30.211 Will the notice be published in a newspaper?

The judge may cause advance notice of hearing to be published in a newspaper of general circulation in the vicinity of the designated place of hearing. The cost of publication may be paid from the assets of the estate under § 30.144.

§ 30.212 May I waive notice of the hearing or the form of notice?

You may waive your right to notice of the hearing and the form of notice by:

- (a) Appearing at the hearing and participating in the hearing without objection; or
- (b) Filing a written waiver with the judge before the hearing.

§ 30.213 What notice to a tribe is required in a formal probate proceeding?

(a) In probate cases in which the decedent died on or after June 20, 2006, the judge must notify any tribe with